

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

DONALD COVINGTON,

Plaintiff,

v.

**CIVIL ACTION NO. 2:10-CV-110
(BAILEY)**

DR. DAVID PROCTOR,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel. By Local Rule, this action was referred to Magistrate Judge Joel for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Joel filed his R&R on September 21, 2011 [Doc. 34]. In that filing, the magistrate judge recommends that this Court grant the defendant's Motion for Summary Judgment [Doc. 30] and dismiss with prejudice the plaintiff's Complaint [Doc. 1].

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

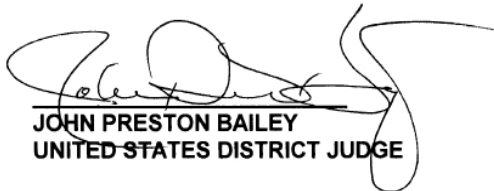
review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Joel's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. The docket reflects that service was accepted on September 22, 2011. See Doc. 35. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review, it is the opinion of this Court that the magistrate judge's Report and Recommendation [**Doc. 34**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. As such, this Court hereby **GRANTS** the defendant's Motion for Summary Judgment [**Doc. 30**] and **DISMISSES WITH PREJUDICE** the plaintiff's Complaint [**Doc. 1**]. Therefore, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court. The Clerk is directed to enter a separate judgment in favor of the defendant.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: October 17, 2011.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE